

MONTANA LEGISLATIVE HISTORY

Chapter 581 19 99

Bill H 566 S _____ Original bill & history ✓ C

H. Committee on Judiciary
Hearing Date(s) 2/15 ✓ C
2/17 ✓ C
_____ C
_____ C
Date Out _____ C

S. Committee on Judiciary
Hearing Date(s) 3/18 ✓ C
3/25 ✓ C
_____ C
_____ C

Did this bill originate in an interim committee? _____ Yes ✓ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

578	(House Bill No. 2; Zook) APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2001; AND PROVIDING AN EFFECTIVE DATE	2606
579	(House Bill No. 127; Johnson) GENERALLY REVISING CHILD SUPPORT LAWS TO IMPROVE SERVICES; ELIMINATING OBSOLETE PROVISIONS; CONFORMING THE PROVISION FOR JURISDICTION OVER A NONRESIDENT TO FEDERAL FULL FAITH AND CREDIT REQUIREMENTS; MAKING THE DEFINITIONS OF "SUPPORT ORDER" CONSISTENT WITH EACH OTHER; CONFORMING WARRANT FOR DISTRRAINT PROVISIONS WITH A MONTANA SUPREME COURT DECISION; ALLOWING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO SUBSTITUTE A SUPPORT ORDER MADE IN ACCORDANCE WITH THE CHILD SUPPORT GUIDELINES FOR AN ADMINISTRATIVE DEFAULT ORDER; ALLOWING FOR AMENDMENT OF AN ADMINISTRATIVE SUPPORT ORDER; REVISING PROVISIONS FOR SERVICE OF PROCESS; PROVIDING FOR DEPARTMENT RECEIPT OF INFORMATION BY PARTIES TO A SUPPORT ORDER; DELETING THE REQUIREMENT THAT AN ALTERNATIVE ARRANGEMENT FOR CHILD SUPPORT BE SIGNED BY THE PARTIES; DELETING THE REQUIREMENT FOR A MONTHLY MEDICAID REIMBURSEMENT IF PARENTS ARE NOT ELIGIBLE FOR HEALTH INSURANCE AT REASONABLE COST; AMENDING SECTIONS 40-4-210, 40-5-201, 40-5-202, 40-5-207, 40-5-210, 40-5-224, 40-5-225, 40-5-247, 40-5-253, 40-5-273, 40-5-315, 40-5-403, 40-5-701, 40-5-806, 40-5-807, AND 40-5-901, MCA; REPEALING SECTIONS 40-5-211, 40-5-212, AND 40-5-223, MCA; AND PROVIDING EFFECTIVE DATES	2668
580	(House Bill No. 337; E. Bergsagel) GENERALLY REVISING UNIVERSAL SYSTEM BENEFITS ELECTRIC LAWS; DEFINING "INTERESTED PERSON", "LARGE CUSTOMER", AND "QUALIFYING LOAD" FOR UNIVERSAL SYSTEM BENEFITS PROGRAMS PURPOSES; ESTABLISHING UNIVERSAL SYSTEM BENEFITS RATES FROM JANUARY 1, 1999, THROUGH JULY 1, 2003; ELIMINATING ACCESS RECIPROCITY BETWEEN DISTRIBUTION SERVICES PROVIDERS; ESTABLISHING UNIVERSAL SYSTEM BENEFITS PROGRAMS FUNDS; ESTABLISHING THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AS FUND ADMINISTRATORS AND PROVIDING EACH AGENCY WITH RULEMAKING AUTHORITY TO ADMINISTER THE FUNDS; REQUIRING THE DEPARTMENT OF REVENUE TO REVIEW UNIVERSAL SYSTEM BENEFITS PROGRAMS CREDITS IF THE CREDITS ARE CHALLENGED; PROVIDING THE DEPARTMENT OF REVENUE WITH RULEMAKING AUTHORITY; AMENDING SECTIONS 18-4-132, 69-8-103, 69-8-402, AND 69-8-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2692
581	(House Bill No. 566; Brainard) AUTHORIZING AN INTERIM STUDY OF METHODS FOR A STATE LAW ALTERNATIVE METHOD FOR FIREARMS RECORDS CHECKS OF PURCHASERS; RESERVING TO THE STATE THE GOVERNMENTAL RIGHT TO SUE FIREARMS AND AMMUNITION MANUFACTURERS, TRADE ASSOCIATIONS, AND DEALERS TO THE STATE IN CERTAIN TYPES OF CASES; REVISING LAWS RELATING TO CONCEALED WEAPONS PERMITS, SILENCERS, AND THE POSSESSION OF A WEAPON IN A SCHOOL BUILDING WITH THE PURPOSE TO COMMIT A CRIMINAL OFFENSE; AND AMENDING SECTIONS 45-8-321, 45-8-322, 45-8-337, AND 45-8-361, MCA	2701

2/09 Introduced and 1st Reading
 2/09 Referred to Transportation
 2/09 Fiscal Note Requested
 2/15 Fiscal Note Received
 2/15 Hearing
 2/16 Fiscal Note Printed
 2/18 Tabled in Committee
 3/01 Missed Deadline for General Bill Transmittal

HB 566 Introduced by Brainard, et al.

LC1657 Drafter: MacMaster

Authorize an Interim Study of Methods for a State Law Alternative Method for Firearms Records Checks of Purchasers;...

2/09	Introduced and 1st Reading		
2/09	Referred to Judiciary		
2/09	Fiscal Note Requested		
2/15	Hearing		
2/17	Fiscal Note Received		
2/17	Committee Executive Action--Bill Passed as Amended	15	5
2/18	Fiscal Note Printed		
2/18	Committee Report--Bill Passed as Amended		
2/19	2nd Reading Passed as Amended	74	25
2/19	Revised Fiscal Note Requested		
2/20	Revised Fiscal Note Received		
2/20	Revised Fiscal Note Printed		
2/22	3rd Reading Passed	70	29
	Transmitted to Senate		
2/23	Referred to Judiciary		
3/18	Hearing		
3/26	Committee Executive Action--Bill Concurred as Amended	6	1
3/26	Committee Report--Bill Concurred as Amended		
3/27	2nd Reading Concurred	47	1
3/29	3rd Reading Concurred	42	5
	Returned to House with Amendments		
4/13	2nd Reading Senate Amendments Not Concurred	88	11
4/13	Conference Committee Appointed		
4/15	Hearing		
4/15	Conference Committee Report Received		
4/20	2nd Reading Conference Committee Report Adopted	91	7
4/21	3rd Reading Conference Committee Report Adopted	75	25
	Senate		
4/14	Conference Committee Appointed		
4/15	Conference Committee Report Received		
4/16	2nd Reading Conference Committee Report Adopted	50	0
4/17	3rd Reading Conference Committee Report Adopted	36	13
4/21	Sent to Enrolling		
4/27	Signed by President		
4/28	Returned from Enrolling		
4/29	Signed by Speaker		
4/30	Transmitted to Governor		
5/10	Signed by Governor		

5/10 Chapter Number Assigned
Chapter Number 581
Effective Date: 10/01/1999 - All Sections

HB 567 Introduced by Noennig, et al. *LC1151 Drafter: Petesch*

Generally Implement Article VIII, Section 17, of the Montana Constitution;...

By Request of Joint Select Committee on CI-75

2/09	Introduced and 1st Reading		
2/09	Referred to Taxation		
2/15	Hearing		
2/17	Committee Executive Action--Bill Passed as Amended	20	0
2/17	Committee Report--Bill Passed as Amended		
2/19	2nd Reading Passed	94	4
2/20	3rd Reading Passed	94	5
	Transmitted to Senate		
2/22	Referred to Taxation		
3/05	Hearing		
	Died in Standing Committee		

HB 568 Introduced by McCann *LC0807 Drafter: McClure*

Appropriate Funds to Hays-Lodge Pole School District No. 50, Blaine County, from the State General Fund to Assist in the Rebuilding of the Lodge Pole Elementary School;...

2/09	Introduced and 1st Reading
2/09	Referred to Appropriations
2/15	Hearing
2/16	Tabled in Committee
3/26	Missed Deadline for Appropriation Bill Transmittal

HB 569 Introduced by R. Erickson, et al. *LC1569 Drafter: Heiman*

Create Tax Incentives for Businesses That Conserve Energy and Fossil Fuels by Establishing Transportation and Alternatives for Employees;...

1/11	Fiscal Note Needed		
2/09	Introduced and 1st Reading		
2/09	Referred to Taxation		
2/09	Fiscal Note Requested		
2/15	Hearing		
2/16	Fiscal Note Received		
2/17	Fiscal Note Signed		
2/17	Fiscal Note Printed		
3/03	Committee Executive Action--Bill Passed	17	3
3/04	Committee Report--Bill Passed		
3/24	2nd Reading Passed	78	21
3/25	3rd Reading Passed	71	29
	Transmitted to Senate		
3/26	Referred to Taxation		
4/07	Hearing		
4/08	Tabled in Committee		
	Died in Standing Committee		

House BILL NO. 566

INTRODUCED BY

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FIREARMS LAWS RELATING TO RECORDS CHECKS OF PURCHASERS, CONCEALED WEAPONS PERMITS, SILENCERS, AND THE POSSESSION OF A WEAPON IN A SCHOOL BUILDING WITH THE PURPOSE TO COMMIT A CRIMINAL OFFENSE; AND AMENDING SECTIONS 45-8-321, 45-8-322, 45-8-337, 45-8-361, AND 61-5-114, MCA."

WHEREAS, the Second Amendment to the Constitution of the United States provides that "the right of the people to keep and bear arms shall not be infringed"; and

WHEREAS, documents written by the founding fathers clearly indicate that the right to keep and bear arms includes the keeping and bearing of firearms for personal use and protection unrelated to the necessity of a well-regulated militia to the security of a free state; and

WHEREAS, Article II, section 12, of the Montana Constitution provides that the "right of any person to keep or bear arms in defense of his own home, person, and property . . . shall not be called in question"; and

WHEREAS, Article II, section 3, of the Montana Constitution grants all persons the inalienable right of defending their lives and liberties and protecting property; and

WHEREAS, the Legislature seeks to facilitate the exercise of the above rights, expedite the purchase of firearms, and further the protection of the lives and property of the people.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Driver's license firearms criminal background check. (1) Unless the applicant requests otherwise, the department shall, upon application for a driver's license or the renewal of a driver's license, verify that the information available to the department, including information available under Title 44, chapter 5, does not indicate that possession of a firearm by the applicant would be in violation of state or federal law. The department shall, as part of the verification process, perform the national instant criminal background check that the federal Brady Handgun Violence Prevention Act requires a federally licensed firearms dealer to perform on a prospective purchaser of a firearm.

(2) If the applicant passes the records checks provided for in subsection (1):

(a) the driver's license issued to the applicant must contain a box with a checkmark in it followed by the words "NICS compliance good until", followed by the date that is 5 years after the date of the issuance of the driver's license; and

(b) upon presentation of the driver's license to a federally licensed firearms dealer during the 5-year period following the date of issuance of the driver's license, the dealer may not conduct, and under federal law need not conduct, a national instant criminal background check as a prerequisite to selling a firearm to the person to whom the driver's license was issued.

Section 2. Section 45-8-321, MCA, is amended to read:

"45-8-321. Permit to carry concealed weapon. (1) A county sheriff shall, within 60 days after the filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from the date of issuance. An applicant must be a United States citizen who is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued by the state that has a picture of the person identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the applicant:

(a) is ineligible under Montana or federal law to own, possess, or receive a firearm;

(b) has been charged and is awaiting judgment in any state or federal crime that is punishable by incarceration for 1 year or more;

(c) has been convicted in any state or federal court of a crime punishable by more than 1 year of incarceration or, regardless of the sentence that may be imposed, a crime that includes as an element of the crime an act, attempted act, or threat of intentional homicide, violence, bodily or serious bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without consent;

(d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years have elapsed since the date of the conviction;

(e) has a warrant of any state or the federal government out for the applicant's arrest;

(f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred imposition of sentence, treatment or education, or other

1 conditions of release or is otherwise under state supervision;

2 (g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be
3 mentally ill, mentally defective, or mentally disabled and is still subject to a disposition order of that court;
4 or

5 (h) was dishonorably discharged from the United States armed forces.

6 (2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has
7 reasonable cause to believe that the applicant is mentally ill, mentally defective, or mentally disabled or
8 otherwise may be a threat to the peace and good order of the community to the extent that the applicant
9 should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff shall,
10 unless the applicant is the subject of an active criminal investigation, give the applicant a written
11 statement of the reasonable cause upon which the denial is based.

12 (3) An applicant for a permit under this section must, as a condition to issuance of the permit,
13 be required by the sheriff to demonstrate familiarity with a firearm by:

14 (a) completion of a hunter education or safety course approved or conducted by the department
15 of fish, wildlife, and parks or a similar agency of another state;

16 (b) completion of a firearms safety or training course approved or conducted by the department
17 of fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law
18 enforcement agency, an institution of higher education, or an organization that uses instructors certified
19 by a national firearms association;

20 (c) completion of a law enforcement firearms safety or training course offered to or required of
21 public or private law enforcement personnel and conducted or approved by a law enforcement agency;

22 (d) possession of a license from another state to carry a firearm, concealed or otherwise, that
23 is granted by that state upon completion of a course described in subsections (3)(a) through (3)(c); or

24 (e) evidence ~~that the sheriff may or may not accept~~ that the applicant, during military service,
25 was found to be qualified to operate ~~handguns~~ firearms.

26 (4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit
27 from the entity or instructor that conducted the course attesting to completion of the course, or a copy
28 of any other document that attests to completion of the course and can be verified through contact with
29 the entity or instructor that conducted the course creates a presumption that the applicant has completed
30 a course described in subsection (3).

1 (5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstratin
 2 familiarity with a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff c
 3 of any person or entity to which the sheriff delegates authority to give the test, a physical test in whic
 4 the applicant demonstrates the applicant's familiarity with a firearm."

5

6 Section 3. Section 45-8-322, MCA, is amended to read:

7 "45-8-322. Application, renewal, permit, and fees. (1) The application form must be readily
 8 available at the sheriff's office and must read as follows:

9 CONCEALED WEAPON PERMIT APPLICATION

10 To be completed by each person making application:

11 RESIDENT OF MONTANA AT LEAST 6 MONTHS () Yes () No

12 CITIZEN OF THE UNITED STATES () Yes () No

13 18 YEARS OF AGE OR OLDER () Yes () No

14

15 PLEASE TYPE OR PRINT

16 Full name:

17 Last First Middle

18 Alias/Maiden/Nickname:

19 Address: Home: Zip

20 Employer: Zip

21 Phone://

22 Home Employer Message

23 Place of birth: Date of birth:

24 Driver's license #: Issuing state:

25 Social Security #:

26 Sex Ht. Wt. Eyes Hair

27 LIST EACH FORMER EMPLOYER OR BUSINESS ENGAGED IN FOR THE LAST 5 YEARS:

28 Employer or

29 business name Address Dates of employment

30 1.

1 2.

2 3.

3 4.

4 5.

5 6.

6 LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST 5 YEARS:

7	City	State	Dates of residence
8 1.			
9 2.			
10 3.			
11 4.			
12 5.			
13 6.			

14 MILITARY SERVICE, BRANCH FROM TO

15 TYPE OF DISCHARGE RANK UPON DISCHARGE

16 HAVE YOU EVER BEEN ARRESTED FOR OR CONVICTED OF A CRIME OR FOUND GUILTY IN A
17 COURT-MARTIAL PROCEEDING?

18 () YES () NO

19 IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic violations) (Attach additional sheet if
20 necessary):

21	City	State	Charge	Date
22 1.				
23 2.				
24 3.				
25 4.				
26 5.				

27 LIST THREE PERSONS WHOM YOU HAVE KNOWN FOR AT LEAST 5 YEARS THAT WILL BE CREDIBLE
28 WITNESSES TO YOUR GOOD MORAL CHARACTER AND PEACEABLE DISPOSITION (DO NOT include
relatives or present/past employers):

29	Name	Address	Phone
----	------	---------	-------



- 1 1.
2 2.
3 3.
4

5 ~~IN COMPLETE DETAIL, PLEASE EXPLAIN YOUR REASONS FOR REQUESTING THIS PERMIT (Attach~~
6 ~~additional sheet if necessary).~~

- 7
8
9
10
11
12

13 I, the undersigned applicant, swear that the foregoing information is true and correct to the best of my
14 knowledge and belief and is given with the full knowledge that any misstatement contained herein may
15 be sufficient cause for denial or revocation of a permit to carry a concealed weapon. I hereby authorize
16 any person having information concerning me that relates to the information requested by this application
17 and the requirements for a concealed weapon permit, either public record or otherwise, to furnish it to
18 the sheriff to whom this application is made.

19
20 Signature

21
22 Date of application

23 This application must be
24 signed in the presence of
25 the sheriff or his a designee.

26 (2) The application must be in triplicate. The applicant must be given the original at the time the
27 completed application is filed with the sheriff, the sheriff shall keep a copy for at least 4 years, and a copy
28 must, within 7 days of the sheriff's receipt of the application, be mailed to the chief of police if the
29 applicant resides in a city or town with a police force.

30 (3) The fee for issuance of a permit is \$50. The permit must be renewed for additional 4-year

1 periods upon payment of a \$25 fee per renewal and upon request for renewal made within 90 days before
2 expiration of the permit. The permit and each renewal must be in triplicate, in a form prescribed by the
3 department of justice, and must at a minimum include the name, address, physical description, signature,
4 driver's license or state identification card number, and a picture of the permittee. A person in the United
5 States armed forces satisfies the requirement of submitting a picture if the person submits pictures of the
6 front of the person's military identification card and the person's Montana driver's license. The permit
7 must state that federal and state laws on possession of firearms and other weapons differ and that a
8 person who violates the federal law may be prosecuted in federal court and the Montana permit will not
9 be a defense. The permittee must be given the original, and the sheriff shall keep a copy and send a copy
10 to the department of justice, which shall keep a central repository record of all permits. Replacement of
11 a lost permit must be treated as a renewal under this subsection.

12 (4) The sheriff shall conduct a criminal record and background check of an applicant, may require
13 an applicant to submit his the applicant's fingerprints, and may charge the applicant \$5 for fingerprinting.

14 (5) Permit, background, and fingerprinting fees may be retained by the sheriff and used to
15 implement 45-8-321 through 45-8-325.

16 (6) A state or local government law enforcement agency or other agency or any of its officers
17 or employees may not request a permittee to voluntarily submit information in addition to that required
18 on an application and permit."

19
20 Section 4. Section 45-8-337, MCA, is amended to read:

21 "**45-8-337. Possession of bomb or similar device prima facie evidence of unlawful purpose.**

22 Possession ~~of a silencer or~~ of a bomb or similar device charged or filled with one or more explosives is
23 prima facie evidence of a purpose to use the same to commit an offense."

24
25 Section 5. Section 45-8-361, MCA, is amended to read:

26 "**45-8-361. Possession or allowing possession of weapon in school building -- exceptions --**
27 **penalties -- seizure and forfeiture or return authorized -- definitions.** (1) A person commits the offense of
28 possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or
29 stores a weapon in a school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in

1 a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry,
2 or store a weapon in a school building.

3 (3) (a) Subsection (1) does not apply to law enforcement personnel.

4 (b) The trustees of a district may grant persons and entities advance permission to possess, carry,
5 or store a weapon in a school building.

6 (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500,
7 imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider
8 alternatives to incarceration that are available in the community.

9 (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person
10 possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful
11 owner.

12 (ii) If a weapon seized under the provisions of this section is subsequently determined to have been
13 stolen or otherwise taken from the owner's possession without permission, the weapon must be returned
14 to the lawful owner.

15 (5) As used in this section:

16 (a) "school building" means all buildings owned or leased by a local school district that are used
17 for instruction or for student activities. The term does not include a home school provided for in 20-5-109.

18 (b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a
19 sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles, or any other
20 weapon possessed with the purpose to commit a criminal offense."

21

22 Section 6. Section 61-5-114, MCA, is amended to read:

23 "61-5-114. Duplicate licenses. In the event that an instruction permit or driver's license issued
24 under the provisions of this chapter is lost or destroyed, the person to whom the same was issued may
25 upon the payment of a fee of \$5 obtain a duplicate or substitute ~~thereof~~ license, upon furnishing proof
26 satisfactory to the department that ~~such~~ the permit or license has been lost or destroyed. [Section 1]
27 applies to the application and license."

28

29 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an
30 integral part of Title 61, chapter 5, part 1, and the provisions of Title 61 apply to [section 1].

31

- END -

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Judiciary -

04:00 PM

**HOUSE
JUDICIARY**

CHAIR: Clark, Robert

VICE CHAIR: McGee, Dan
Wyatt, Diana

MEMBERS:

Ahner, Chris

Anderson, Shiell

Clark, Paul

Curtiss, Aubyn

Eggers, Bill

Facey, Tom

Gallus, Steven

Gutsche, Gail

Hurdle, Joan

Jore, Rick

Kitzenberg, Sam

Molnar, Brad

Noennig, Mark

Shockley, Jim

Soft, Loren

Williams, Carol

Younkin, Cindy

SECRETARY: Schindler, Pam

LEGISLATIVE STAFF: MacMaster, John

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Judiciary -

04:00 PM

-
- HB 481** SPONSOR: Stovall, Jay SHORT TITLE: Allow court to allocate costs and attorney fees to prevailing party
REFERRED ON: 02/03/1999 HEARD ON: 02/10/1999
TABLED ON: 02/12/1999
FINAL DISPOSITION 03/01/1999 (H) Missed Deadline for General Bill Transmittal
-
- HB 482** SPONSOR: Mangan, Jeff SHORT TITLE: Revise laws governing juvenile detention officer training
REFERRED ON: 02/03/1999 HEARD ON: 02/10/1999
EXECUTIVE ACTION: 02/12/1999 Bill Passed -- VOTE: 16 - 3
FINAL DISPOSITION 04/27/1999 Chapter Number Assigned
-
- HB 492** SPONSOR: Harper, Hal SHORT TITLE: Criminalize desecration of a place of worship, cemetery, or public memorial
REFERRED ON: 02/04/1999 HEARD ON: 02/09/1999
EXECUTIVE ACTION: 02/12/1999 Bill Passed as Amended -- VOTE: 14 - 5
FINAL DISPOSITION 03/24/1999 Chapter Number Assigned
-
- HB 527** SPONSOR: Harper, Hal SHORT TITLE: Impose interlock ignition requirement on second or subsequent offense
REFERRED ON: 02/06/1999 HEARD ON: 02/12/1999
EXECUTIVE ACTION: 02/17/1999 Bill Passed -- VOTE: 18 - 2
FINAL DISPOSITION 04/07/1999 Chapter Number Assigned
-
- HB 530** SPONSOR: McGee, Dan SHORT TITLE: Revise certain laws and provisions relating to abortion
REFERRED ON: 02/06/1999 HEARD ON: 02/12/1999
EXECUTIVE ACTION: 02/17/1999 Bill Passed as Amended -- VOTE: 13 - 7
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 552** SPONSOR: Peck, Ray SHORT TITLE: Mandatory hate crime reporting
REFERRED ON: 02/08/1999 HEARD ON: 02/15/1999
TABLED ON: 02/17/1999
FINAL DISPOSITION 03/01/1999 (H) Missed Deadline for General Bill Transmittal
-
- HB 566** SPONSOR: Brainard, Matt SHORT TITLE: Authorize interim study of methods for alternative of firearm purchase checks
REFERRED ON: 02/09/1999 HEARD ON: 02/15/1999
EXECUTIVE ACTION: 02/17/1999 Bill Passed as Amended -- VOTE: 15 - 5
FINAL DISPOSITION 05/10/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN ROBERT C. CLARK, on February 15, 1999
at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 552, HB 566, HB 587, HB
576, 2/13/1999

{Tape : 1; Side : B; Approx. Time Counter : 309 - 550}

{Tape : 2; Side : A; Approx. Time Counter : 0 - 440}

Closing by Sponsor:

Rep. Peck made closing statements.

{Tape : 2; Side : A; Approx. Time Counter : 440 - 550}

{Tape : 2; Side : B; Approx. Time Counter : 0 - 117}

EXHIBIT(4)

HEARING ON HB 566

Sponsor:

Rep. Brainnard presented HB 566.

{Tape : 2; Side : B; Approx. Time Counter : 117 - 290}

EXHIBIT(5)

EXHIBIT(6)

EXHIBIT(14)

(exhibit 14 was handed in out of order)

Proponents:

None

Opponents:

None

Informational Testimony:

Brenda Nordlund, Dept. of Justice

{Tape : 2; Side : B; Approx. Time Counter : 290 - 424}

Questions from Committee Members and Responses:

None

Closing by Sponsor:

Rep. Brainnard made closing statements.

{Tape : 2; Side : B; Approx. Time Counter : 424 - 482}

HEARING ON HB 587

Sponsor:

Executive Action: HB 243, 388, 552, 576-Tabled;
HB 104-Do Pass as Amended, HB
59-Do Pass as Amended, HB 527-
Do Pass, HB 530-Do Pass as
Amended, HB 566-Do Pass as
Amended; HB 593-Do Pass as
Amended.

EXECUTIVE ACTION ON HB 54

Motion/Vote: REP. GALLUS moved HB 54-MOTION TO REMOVE FROM
"TABLED" STATUS. Motion failed 9-11 with P. Clark, Curtiss,
Facey, Gutsche, Hurdle, Jore, Molnar, Noennig, Shockley,
Williams, and Wyatt voting nay.

{Tape : 1; Side : A; Approx. Time Counter : 21 - 95}

EXECUTIVE ACTION ON HB 127

Motion: REP. EGGERS moved HB 127-MOVE FROM "TABLED" STATUS.
MOTION PASSED. Motion/Vote: REP. EGGERS moved HB 127 MOVE
AMENDMENT;. Motion carried 20-0.

Motion: REP. AHNER moved that HB 127 DO PASS AS AMENDED.

Motion: REP. NOENNIG moved that HB 127 BE AMENDED.

Substitute Motion: REP. MCGEE made a substitute motion HB 127.
AMENDMENT FAILS. Motion: REP. SHOCKLEY moved that HB 127 BE
AMENDED.

Motion/Vote: REP. YOUNKIN moved that HB 127-NOENNIG AMENDMENT BE
PASSED. Motion carried 20-0. Motion: REP. AHNER moved that HB 127
DO PASS AS AMENDED.

Motion: REP. MCGEE moved that HB 127 BE TABLED. MOTION FAILED.

Motion: REP. MCGEE moved that HB 127 BE AMENDED. MOTION PASSES.

Motion: REP. EGGERS moved HB 127-SUBSTITUTE AMENDMENT. MOTION
PASSES.

Motion: REP. MCGEE moved that HB 127-MOVE ADDITIONAL AMENDMENT
(4) DO PASS AS AMENDED. MOTION PASSED. Motion/Vote: REP. NOENNIG
moved HB 127-MOVE AMENDMENTS 1,2,&3. Motion carried 20-0.

Motion: REP. GUTSCHE moved HB 127-MOVE AMENDMENT.

Motion/Vote: REP. SHOCKLEY moved that HB 127 BE TABLED. Motion
failed 9-11 with P. Clark, Eggers, Facey, Gallus, Gutsche,
Hurdle, Kitzenberg, Noennig, Soft, Williams, and Wyatt voting
nay. Motion/Vote: REP. SOFT moved HB 127-MOVED TO POSTPONE.

Motion carried 20-0.

{Tape : 1; Side : A; Approx. Time Counter : 95 - 550}

{Tape : 1; Side : B; Approx. Time Counter : 0 - 550}

{Tape : 2; Side : A; Approx. Time Counter : 0 - 344}

EXECUTIVE ACTION ON HB 552

Motion: REP. WYATT moved that HB 552 DO PASS.

EXHIBIT(3)

Motion: REP. YOUNKIN moved that HB 552 BE AMENDED.

Motion: REP. NOENNIG moved HB 552-SUBSTITUTE AMENDMENT.

Motion/Vote: REP. JORE moved that HB 552 BE TABLED. Motion carried 12-8 with P. Clark, Eggers, Facey, Gallus, Gutsche, Hurdle, Williams, and Wyatt voting no.

{Tape : 4; Side : B; Approx. Time Counter : 264 - 455}

EXECUTIVE ACTION ON HB 576

Motion: REP. HURDLE moved that HB 576 DO PASS.

Motion/Vote: REP. GALLUS moved that HB 576 BE TABLED. Motion carried 20-0.

{Tape : 5; Side : A; Approx. Time Counter : 0 - 29}

EXECUTIVE ACTION ON HB 566

Motion/Vote: REP. AHNER moved that HB 566 MOVE AMENDMENT; Motion carried 19-1 with Jore voting no.

Motion: REP. AHNER moved that HB 566 DO PASS AS AMENDED.

Motion/Vote: REP. CURTISS moved that HB 566 BE AMENDED. Motion carried 19-1 with Eggers voting no.

Motion: REP. FACEY moved that HB 566 DO PASS AS AMENDED.

Motion/Vote: REP. NOENNIG moved that HB 566 BE AMENDED. Motion failed 8-11 with Ahner, Anderson, R. Clark, P. Clark Curtiss, Gallus, Jore, Kitzenberg, McGee, Molnar, and Shockley voting nay. (Rep. Williams absent during voting)

Motion/Vote: REP. FACEY moved that HB 566 DO PASS AS AMENDED. Motion carried 14-5 with Eggers, Gutsche, Hurdle, Noennig, and Soft voting no.

(Rep. Williams absent during voting)

EXHIBIT(4)

{Tape : 5; Side : A; Approx. Time Counter : 29 - 250}

EXECUTIVE ACTION ON HB 587

Motion: REP. HURDLE moved that HB 587 DO PASS.

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Judiciary -

04:57 PM

**SENATE
JUDICIARY**

CHAIR: Grosfield, Lorents **VICE CHAIR:** Bishop, Al

MEMBERS:

Bartlett, Sue

Doherty, Steve

Grimes, Duane

Halligan, Mike

Holden, Ric

Jabs, Reiny

McNutt, Walter

SECRETARY: Croucher, Delila

Keintz, Judy

LEGISLATIVE STAFF:

Lane, Valencia

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Judiciary -

04:57 PM

-
- HB 530** **SPONSOR:** McGee, Dan **SHORT TITLE:** Revise certain laws and provisions relating to abortion
 REFERRED ON: 02/23/1999 **HEARD ON:** 03/26/1999
 EXECUTIVE ACTION: 03/27/1999 Bill Concurred as Amended -- VOTE: 6 - 3
 FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 559** **SPONSOR:** Curtiss, Aubyn **SHORT TITLE:** Private property protection
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/16/1999
 TABLED ON: 03/25/1999
 FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 566** **SPONSOR:** Brainard, Matt **SHORT TITLE:** Authorize interim study of methods for alternative of firearm purchase checks
 REFERRED ON: 02/23/1999 **HEARD ON:** 03/18/1999
 EXECUTIVE ACTION: 03/26/1999 Bill Concurred as Amended -- VOTE: 6 - 1
 FINAL DISPOSITION 05/10/1999 Chapter Number Assigned
-
- HB 593** **SPONSOR:** Harper, Hal **SHORT TITLE:** Provide confidentiality in mediation proceedings
 REFERRED ON: 02/23/1999 **HEARD ON:** 03/15/1999
 EXECUTIVE ACTION: 03/17/1999 Bill Concurred as Amended -- VOTE: 8 - 1
 FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HJ 5** **SPONSOR:** Jore, Rick **SHORT TITLE:** Urge the United States Congress to repeal a federal act known as the Brady Law
 REFERRED ON: 02/22/1999 **HEARD ON:** 03/18/1999
 EXECUTIVE ACTION: 03/25/1999 Bill Concurred as Amended -- VOTE: 8 - 1
 FINAL DISPOSITION 04/26/1999 (H) Filed with Secretary of State
-
- HJ 37** **SPONSOR:** Hurdle, Joan **SHORT TITLE:** Interim study of women's prison issues
 REFERRED ON: 04/15/1999 **HEARD ON:** 04/16/1999
 FINAL DISPOSITION 04/26/1999 (H) Filed with Secretary of State
-
- HJ 38** **SPONSOR:** Barnhart, Beverly **SHORT TITLE:** Interim study of salaries for probation officers
 REFERRED ON: 04/15/1999 **HEARD ON:** 04/16/1999
 FINAL DISPOSITION 04/26/1999 (H) Filed with Secretary of State
-

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 18, 1999
at 9:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 459, 3/12/1999; HB 566,
3/12/1999; HJR 5, 3/12/1999
Executive Action: None

HEARING ON HB 459

Sponsor: REP. ROBERT CLARK, HD 8, Ryegate

Proponents:

Gary Marbut, MT Shooting Sports Assoc.
Brian Judy, Montana Members of the National Rifle Assoc.

Closing by Sponsor:

REP. CLARK said a person, regardless of where they are from, must have that permit in their possession. If that permit is not a picture I.D. they cannot carry a weapon in the State of Montana. The advisory council may be a source of information for law enforcement or for the Legislature as to changes that are being made.

{Tape : 1; Side : B; Approx. Time Counter : 9:55 a.m.}

HEARING ON HB 566

Sponsor: REP. MATT BRAINARD, HD 62, Missoula

Proponents:

REP. BOB CLARK, HD 8, Ryegate
Gary Marbut, MT Shooting Sports Assoc.
Brian Judy, Montana Members of the National Rifle Assoc.
A.M. Elwell, Northwest Arms Collectors
Tom Farrenkopf, Citizens to Preserve the Second Amendment
John Appelt, Citizens to Preserve the Second Amendment
Kim Liles, Citizens to Preserve the Second Amendment
W.C. Hollenbaugh, Self
Leroy Patterson, Self
Frank Brisendine, Self
Mike Wallace, Wallace Custom Grips

Opponents: None

Opening Statement by Sponsor:

REP. MATT BRAINARD, HD 62, Missoula, said on page 2 this language deals with a way for the state to assist citizens in dealing with the national instant check system. He handed out some information on the Federal Registry. **EXHIBIT(1)** He said he wanted citizens of this state to have a permanent means of being able to purchase a weapon without having to go through the instant check every time they purchase a weapon. He said if a person goes to buy a gun they have to go through the instant check. He said if that person decides the next day to take the gun back because something is wrong with it, etc. they have to go through the instant check again. This is a waste of time when the individual has just been there. Section 2 deals with the right to sue firearms or ammunition manufacturers. He passed out a newspaper article from New York concerning this. **EXHIBIT(2)** He also passed out an article called "Freedom disappearing for Freedom Arms".

EXHIBIT(3) He explained this article. He explained page 4, line 18. He said there are many people in the military that do not have any safety certificates from their military training. People can get a concealed weapon permit if they have passed a hunter safety course or an NRA safety course, but if they have spent 20 years as a military small arms instructor, they cannot get the permit and this bill will take care of that. He said on page 5, line 18 they are striking out "social security number". Page 6, they are striking lines 27 and 28. He said there are no provisions in law that provide a permit should be issued or denied for personal reasons. One person's reason is as good as another and it doesn't need to be used. Page 7, line 26-28, deals with identification of the use of a military I.D. He explained page 8, line 14 and page 9 line 13-14.

{Tape : 1; Side : B; Approx. Time Counter : 10:06 a.m.}

Proponents' Testimony:

REP. BOB CLARK, HD 8, Ryegate, referred to the newspaper article from New York. **(EXHIBIT 2)** He said since this lawsuit, many states have adopted laws concerning the ability to be able to sue gun manufactures. This language has come from the state of Georgia to prevent these lawsuits from happening.

Gary Marbut, MT Shooting Sports Assoc., said they like the idea of this bill going to an interim study. He discussed some of the issues in the bill. He said they would like that when anybody goes to renew their driver's license they get the criminal record background check and if they are eligible to buy guns it will be marked on their driver's license. He said they are very supportive of the law preempting lawsuits against gun makers. These lawsuits are a way to cripple gun makers. If this happens, gun makers will go out of business or drive the price of guns up to where they are unaffordable. He said, currently, to apply for a concealed weapon permit, that person has to give the sheriff some kind of credential that they have had adequate training with a firearm. This would help people who have a military record. He said an insufficient reason is not grounds for denial of permit. He said they advise when people fill out the personal reason section that they put "to provide for personal security and comply with state laws". These are the reasons for everyone applying for a concealed weapon permit. He said they also agree with taking the social security number off of the application as it is an invasion of privacy. He said they also agree with the idea of expanding the definition of weapons in schools.

Brian Judy, Montana Members of the National Rifle Assoc., said there are many different provisions in this bill and they support

them. Federal law does provide for state alternatives to the national instant check. He said it is a waste of resources to have to check a person all the time when they purchase a gun. He said the NRA supports the instant check, but the federal government has acted in bad faith in implementing the national instant check system. He said there was to be no fee imposed on law abiding prospective firearm purchasers. The whole idea of the background check is to reduce crime and society should bear the cost, not law abiding citizens trying to purchase firearms. However, the federal government tried to implement a fee and the NRA had to fight extensively to win that argument and this will probably be an annual battle. If there is a state program it could reduce the background checks and those fees. The federal government is also maintaining records on law abiding firearm owners. He said it was clear in the Brady law that records be destroyed immediately on law abiding citizens. If there was a provision in state law that would allow these records to be destroyed the federal government could not be involved. He said the other issue that is important, is prohibiting lawsuits against firearm manufactures by city governments. He said the firearms industry is extraordinarily regulated. He said manufacturers are selling legal products that are beneficial to help reduce crime. He said when firearms are misused by criminals the guns themselves are operating normally. These guns are not defective. Many anti-gun groups are filing lawsuits against the firearms industry to extort money out of the industry and put the firearms industry out of business and raise the price to a point where the average law abiding citizen won't be able to afford them. These lawsuits also displace responsibility. They tell the person that is committing the crime that it is not their fault, it is the gun manufacturer's fault. Many other states have laws concerning these efforts.

A.M. Elwell, Northwest Arms Collectors, said he has lost the sale of several firearms due to the instant criminal background check. This deters people from buying firearms, but not criminals because most of their guns are stolen or bought off the street. He said he would like to be able to see more people be able to buy guns with the least amount of intrusion as possible. He said it is absurd to try and blame an inanimate object for human behavior. A firearm is a mechanical idiot, it has no brain, intent, will or desire.

Tom Farrenkopf, Citizens to Preserve the Second Amendment, rose in support of this bill.

John Appelt, Citizens to Preserve the Second Amendment, said the suing of manufacturers is a vindictive attempt to erode the intent set down by our founding fathers in reference to our

rights under the second amendment. Guns are inanimate objects, it cannot kill anyone on its own.

Kim Liles, Citizens to Preserve the Second Amendment, said as a gun owner it is a shame that they always have to fight to keep their Constitutional rights.

W.C. Hollenbaugh, Self, rose in support of HB 566.

Leroy Patterson, Self, said when he was a member of the military they had to fill out a form to provide for the social security number under the privacy act. He said when he went to purchase a handgun, he was told that if he did not provide his social security number, he might not be approved for a handgun. Support of this bill will eliminate a lot of people from having information that they don't need.

Frank Brisendine, Self, rose in support of HB 566.

Mike Wallace, Wallace Custom Grips, said he manufactures custom grips mainly for the old single action pistols. He has made grips for many famous people and he didn't think any of those names would be in the newspaper for committing a crime. He said if a crime is committed with a weapon there has to be a thinking person behind that gun. Manufacturers should not be held responsible for someone else's irresponsibility.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. DOHERTY discussed the section on the ability to sue. He asked if this bill would not limit in anyway a gun owner or user the ability to sue a firearm manufacturer for a manufacturing defect. **REP. BRAINARD** said that was correct.

REP. DOHERTY asked why should the Legislature tell people in certain communities that they cannot sue a gun manufacturer, etc. **REP. BRAINARD** said he as a taxpayer does not want to see his money used on such frivolous matters. He said this will make the process more stable and responsible.

SEN. DOHERTY asked why not let the local citizen control their local government and determine how their local taxes are going to be paid. **REP. BRAINARD** said local government derives its powers from what the state legislature gives them. It is more responsible for the legislature to take this approach to deal with this.

{Tape : 2; Side : A; Approx. Time Counter : 10:35 a.m.}

SEN. BARTLETT asked if they would object to putting in some type of framework as to how recent the military experience is. **REP.**

BRAINARD said the State of Colorado requires all individuals to go through hunter safety except for individuals over 45 or 50. He said those people that were in WWII are probably more responsible gun handlers than ones in the military currently. He said many people in the military don't have proof that they had the training in the military. This section will provide that if they have been trained in small firearms they will qualify and this will standardize this.

SEN. BARTLETT said within the next few years the Department of Justice will be phasing out the use of social security numbers on driver's license numbers. She asked should they still eliminate the social security number from the application form. **REP.**

BRAINARD said the driver's license number is sufficient identification to purchase a weapon. He said the driver's license number is the number used on a concealed weapon permit.

CHAIRMAN GROSFIELD said he spent a year in Vietnam and he was never trained to have anything to do with handguns. Handguns are a little different in terms of safety training than rifles. He asked why are they changing this on lines 18-19, page 4. **REP.**

BRAINARD said their rules for handling a firearm is no different than a rifle. Hunter safety courses do the same thing. The basic handling of a weapon is important.

{Tape : 2; Side : A; Approx. Time Counter : 10:45 a.m.}

SEN. HALLIGAN said when they don't use a social security number, they get nationwide searches for the wrong guy. He asked how do they do accurate background checks if they don't use the social security number. **REP. BRAINARD** said that is a good point and he is not sure how much the sheriff uses the social security number on a background check. **Mike Batista** said the social security number is a valuable identifier for law enforcement. Social Security ensures that they have the right person when they do a criminal history record check.

SEN. HALLIGAN said this is important that these people are not confused with someone else. **Gary Marbut** said he has discussed this issue with a number of sheriffs and the best identifiers that they use is the name, place, date of birth, and physical description. There are other people using other people's social security numbers.

Closing by Sponsor:

REP. BRAINARD closed on HB 566.

{Tape : 2; Side : A; Approx. Time Counter : 10:50 a.m.}

HEARING ON HJR 5

Sponsor: REP. RICK JORE, HD 73, Ronan

Proponents:

Gary Marbut, MT Shooting Sports Assoc.
Brian Judy, Montana Members of the National Rifle Assoc.
A.M. Elwell, Northwest Arms Collectors
John Dorn, Self
Tom Farrenkopf, Citizens to Preserve the Second Amendment
Kim Liles, Citizens to Preserve the Second Amendment
John Appelt, Citizens to Preserve the Second Amendment
W.C. Hollenbaugh, Self
Frank Brisendine, Self
Leroy Patterson, Self
Allen Lee, Self
Mike Wallace, Wallace Custom Grips

Opponents:

Betty Waddell, MT Assoc. of Churches

Opening Statement by Sponsor:

REP. RICK JORE, HD 73, Ronan, said this bill is a resolution concerning the Brady Law. The Brady Law is not working like it should and is a violation of the Federal and State Constitution. He handed out a sheet on "The Brady Law and Its Aftermath. EXHIBIT(4) He also passed out a newspaper article from the Great Falls Tribune. EXHIBIT(5) He said he interviewed a sporting goods store in Ronan who said the instant check really was not working so well. They had numerous delays and one individual came in one day and was okay and then two days later came back and he was denied. The cost to do the instant check is around \$13-\$16 per person and this cost will be passed on to the consumer. He read an article from U.S. Today, January 21, 1999. He said 13,000 would be purchasers were denied guns, but no arrests had been made. There was no evidence that someone was illegally purchasing a gun, all 13,000 of them could have been legitimate law abiding citizens.

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 25, 1999
at 8:21 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 54, 3/19/1999; HB 59,
3/19/1999; HB 482, 3/19/1999;
HB 185, 3/19/1999
Executive Action: HB 339; HB 459; HB 566

EXECUTIVE ACTION ON HB 459

Discussion:

Valencia Lane explained the amendments for **HB 459. EXHIBIT(1)**

SEN. MIKE HALLIGAN said in a large percentage of cases the children are never taken away. Many parents go to a parenting class and they get help and they are not involved in the system. He asked how often are children taken away. **Chuck Hunter** said of the 10,000 or so calls that they get on an annual basis about 60 percent of those are investigated briefly and it is determined there are no real issues. He said of the 4000 cases that remain, 60 percent of those children stay in the home. He said some leave the home for a short time and then come back.

SEN. HALLIGAN asked of those children taken out of the home go to foster care or are they taken to extended family, etc. **Chuck Hunter** said he would get this information.

SEN. JABS asked if a 15 year old girl can get representation if she needs it. **Chuck Hunter** said anyone who wants to bring someone in with them is allowed to do so. He said every child that is involved in the system if they get into court proceedings, will have a guardian appointed by the courts.

SEN. HALLIGAN asked if they have a formal policy right now that is in written form that allows people to bring in their advocate or friend. **Chuck Hunter** said he doesn't think it is in written form.

EXECUTIVE ACTION ON HB 566

Discussion:

Valencia Lane explained the amendments for **HB 566. EXHIBIT(2)**

Motion: **SEN. DOHERTY** moved **AMENDMENTS HB056601.av1.**

Discussion:

SEN. HOLDEN said he would like to segregate amendment #3 from the rest of them. He said in the military they don't just have handgun classes. They deal with all firearms and gun safety is the same for all guns. He said they should leave the bill as it is and not reinsert the handgun language.

CHAIRMAN GROSFIELD said the training he got just dealt with rifles and each gun has a different training. He said a normal soldier doesn't pack a sidearm they pack a rifle. He said his youngest son wants a handgun to shoot all of the wolves that are going to be coming out of Yellowstone Park when he is working on the ranch. He has been through hunter safety and does fine with a rifle, but there is a difference and this is a concern.

SEN. HOLDEN said safety issues are the same, and to deny someone a permit just because they didn't take a handgun safety course is too technical.

SEN. BARTLETT said what they are dealing with is a permit to carry a concealed weapon and that usually means some type of handgun or sidearm. She said perhaps they should include firearms and handguns.

Substitute Motion/Vote: **SEN. BARTLETT** made a substitute motion **TO INSERT "FIREARMS, INCLUDING HANDGUNS."** Substitute motion carried 7-0.

Discussion:

SEN. BARTLETT discussed amendment #4. She said in order to do the background check they need a social security number and it should be restored.

SEN. HALLIGAN said he does confidential searches for the court to find people's birth parents and when they do something nationwide with just a birth date there will be anywhere from 30 to 100 people with the same name and birth date. The social security number is a way to ensure who these people are and they can get that gun right away.

SEN. HOLDEN said these are based off of the driver's license numbers and not social security numbers.

Vote: Motion to accept the rest of the amendments carried 5-3 on a roll call vote.

Motion/Vote: **SEN. BARTLETT** moved **HB 566 BE CONCURRED IN AS AMENDED.** Motion carried 8-0.

{Tape : 1; Side : A; Approx. Time Counter : 8:55 a.m.}

EXECUTIVE ACTION ON HB 339

Discussion:

SEN. BARTLETT said she would like to segregate amendment #2 on HB033901.av1. **EXHIBIT(3)**

Motion: **SEN. BARTLETT** moved **ALL AMENDMENTS FOR HB 339 EXCEPT #2. (EXHIBIT 3)**